

McCULLEY | McCLUER
A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

MCCULLEY MCCLUER PLLC is a boutique litigation firm focused on representing plaintiffs in complex commercial litigation. Based in Charleston, South Carolina, the Firm has a national practice and primarily litigates significant antitrust, commercial, and healthcare matters in courts throughout the country.

McCulley McCluer has extensive experience prosecuting class actions and other complex litigation. This experience has been recognized by Courts and co-counsel through the Firm's selection to serve in leadership roles in a broad range of matters. The Firm has also been selected to serve as outside counsel by numerous State Attorneys General to pursue complex fraud claims on behalf of their States.

Since its founding in 2007, McCulley McCluer has assisted in recovering over \$1 billion for its clients in a range of complex matters. For example, the Firm represented a lead plaintiff in an antitrust class action on behalf of investors in interest rate swaps and other investments tied to the ISDAfix benchmark that settled for \$504.5 million. *Alaska Electrical Pension Fund et al. v. Bank of America Corp.*, 14-cv-7126 (S.D.N.Y.). The Firm also served as Plaintiffs' Executive Committee Counsel in an antitrust class action on behalf of independent truck stop owners that settled for \$130 million and significant injunctive relief. *Universal Delaware, Inc., et al. v. Comdata Corp.*, 07-cv-1078 (E.D. Pa.). In addition, the Firm and its co-counsel recovered \$82 million for a nationwide class of self-insured local governmental entities in a complex prescription drug fraud matter. *In re: McKesson AWP Governmental Entity Litigation*, 08-cv-11349 (D. Mass.). The Firm reached this settlement shortly before trial after achieving the rare certification of a nationwide RICO class and defeating a Rule 23(f) petition to the First Circuit Court of Appeals. The Firm also recovered over \$40 million for the Attorneys General of the States of Mississippi, Ohio, Oklahoma, and Utah in numerous healthcare fraud matters. Additional representative matters are listed below.

The Firm is unique in that each of its attorneys began their careers clerking for federal judges. In addition, the Firm's clients benefit from the diverse litigation backgrounds of its counsel. For example, Mr. McCulley began his career at one of the nation's leading litigation firms, Boies, Schiller & Flexner LLP, where he was among a small group of attorneys who focused on representing plaintiffs in complex commercial litigation. Mr. McCluer began his career at a law firm in Mississippi and has substantial relationships and clients in the agriculture industry. As a result of

these experiences, the Firm has a deep network of co-counsel across the country with whom it has jointly represented clients in many of the largest multi-district litigations pending in the federal courts.

Additional representative matters for the Firm include:

ANTITRUST

Universal Delaware, Inc., et al. v. Comdata Corp., 07-1078 (E.D. Pa.) (Plaintiffs' Executive Committee in direct purchaser antitrust class action that settled for \$130 million).

Alaska Electrical Pension Fund v. Bank of America Corp. et al., 14-cv-07126-JMF (S.D.N.Y.) (represented named plaintiffs in class action seeking damages resulting from the manipulation of the ISDAfix benchmark) (\$504.5 million settlements with fourteen of the world's largest banks).

In re: Pre-Filled Propane Tank Antitrust Litigation, MDL 2567 (W.D. Mo.) (represent lead plaintiff in antitrust action seeking damages for overcharge damages related to the pricing of propane exchange tanks).

In re: Aftermarket Filters Antitrust Litigation, MDL 1957 (N.D. Ill.) (Co-Chair of the Class Certification Committee in direct purchaser antitrust class action) (\$8.3 million settlement).

In re: Aftermarket Automotive Lighting Products Antitrust Litigation, MDL 2007 (C.D. Cal.) (direct purchaser antitrust class action) (\$50 million settlement).

Contant et al. v. Bank of America Corp., 17-cv-3139 (S.D.N.Y.) (indirect purchaser antitrust class action relating to FX conspiracy) (\$9.95 million partial settlement pending preliminary approval)

FINANCIAL / SECURITIES

MF Global Inc. Customer Cases (Deangelis, et al., v. Corzine, et. al.), 11-cv-7866 (S.D.N.Y.) (represent lead plaintiff in class action seeking damages resulting from failure of MF Global) (\$100 million settlement).

In re LIBOR-Based Financial Instruments Antitrust Litigation, MDL No. 2262 (S.D.N.Y.) (represent lead plaintiff in class action seeking damages for LIBOR-Based Securities holders as a result of the alleged suppression of LIBOR).

HEALTHCARE

In re: McKesson AWP Governmental Entity Litigation, (08-cv-11349, D. Mass.) (member of Plaintiffs' Executive Committee in nationwide class action of public payors of pharmaceuticals that settled for \$82 million) (class representatives included the City of Baltimore, Maryland; Douglas County, Kansas; City of Panama City, Florida; Anoka County, Minnesota; City of Columbia, South Carolina; City of Goldsboro, North Carolina).

State of Ohio v. McKesson Corp., (13-cv-2000 N.D. Cal.) (Co-Lead Counsel for the State of Ohio in pharmaceutical pricing litigation) (\$18.3 million settlement).

Average Wholesale Price Litigation – Mississippi (Special Assistant Attorneys General to the State of Mississippi in pharmaceutical pricing litigation) (favorable settlements).

Average Wholesale Price Litigation – Oklahoma (Co-Lead Counsel for the State of Oklahoma in pharmaceutical pricing litigation against drug manufacturers) (approximately \$20 million recovery).

State of Oklahoma v. McKesson Corp. (08-cv-11349, D. Mass) (Co-Lead Counsel for the State of Oklahoma in pharmaceutical pricing litigation) (recovered funds for both Oklahoma Medicaid and OSEEGIB, Oklahoma's State Health Plan) (favorable settlements).

State of Utah v. McKesson Corp. (10-cv-4743 N.D. Cal.) (Co-Lead Counsel for the State of Utah in pharmaceutical pricing litigation) (favorable settlements).

State of Mississippi v. McKesson Corp. (251-10-862 Hinds County, Miss. Circuit Court) (Co-Lead Counsel for the State of Mississippi in pharmaceutical pricing litigation) (favorable settlement).

ENVIRONMENTAL

In re: Syngenta AG MIR162 Corn Litigation, MDL 2591 (D. Kan.) (represented lead plaintiff non-producer in class action arising from contamination of corn industry) (\$1.51 billion settlement).

In re: BP Oil Spill Litigation, MDL 2179 (E.D. La.) (represented hundreds of Business Economic Loss claimants) (recovered in excess \$10 million).

In re: Genetically Modified Rice Litigation, MDL 1811 (E.D. Mo.) (represented numerous long-grain rice farmers in multi-district litigation) (favorable confidential settlements).

COMMERCIAL

Southeast Georgia Reg'l Med. Ctr., Inc., et al. v. Humana Military Healthcare Services, Inc., Case No. 11 193 00446 09 (Co-Lead Counsel in arbitration resulting in \$2.2 million judgment for client).

The City of Jacksonville, et al. v. Hotels.com, et al., (Duval County, Florida Circuit Court) (Co-Lead Counsel for Duval County, Florida in class action involving taxation of internet travel transactions) (favorable settlement for client).

PRINCIPAL ATTORNEYS

R. BRYANT MCCULLEY

Admitted: South Carolina, Florida, Alabama (U.S. District Court for the Northern District of Alabama, U.S. District Court for the Middle District of Florida).

Education: Hampden-Sydney College (B.A., *summa cum laude*, Phi Beta Kappa); University of Strathclyde (Master of Environmental Studies, *with distinction*); Washington & Lee University School of Law (J.D., *magna cum laude*, Order of the Coif). Editor-in-Chief, WASHINGTON AND LEE LAW REVIEW.

Clerkship: Hon. Karon O. Bowdre, U.S. District Court for the Northern District of Alabama.

Publications: *The Proof is in the Policy: The Bush Administration, Nonpoint Source Pollution and EPA's Final TMDL Rule*, 59 WASH. & LEE L. REV. 237 (2002).

Practice: Mr. McCulley has significant experience representing plaintiffs and defendants in complex commercial litigation.

R. Bryant McCulley has been engaged in complex civil litigation since he entered private practice with the national law firm Boies, Schiller & Flexner LLP. While at Boies Schiller, Mr. McCulley prosecuted and defended class action claims seeking hundreds of millions of dollars in damages. Such matters include: *In re Terazosin Hydrochloride Antitrust Litig.*, S.D. Fla. (\$74.5 million settlement); *In re*

Scrap Metal Antitrust Litig., N.D. Ohio (\$10 million partial settlement); *Spartanburg Regional Healthcare Servs. v. Hillenbrand Indus., Inc.*, D.S.C. (defense of manufacturer in action seeking in excess of \$1 billion).

Since co-founding McCulley McCluer PLLC in 2007, Mr. McCulley has continued to focus on the representation of plaintiffs in high-stakes fraud, antitrust, securities and natural resource damage litigation. A large part of Mr. McCulley's practice involves the prosecution of significant claims on behalf of governmental entities. For example, Mr. McCulley recently as outside counsel to the States of Ohio, Mississippi, Oklahoma, and Utah in healthcare fraud litigation and as a member of the Plaintiffs' Executive Committee in *In re McKesson Gov't Entity Average Wholesale Price Litig.*, D. Mass. These matters resulted in over \$120 million in recoveries for Mr. McCulley's clients.

Mr. McCulley has particular experience litigating issues related to class certification, having represented both plaintiffs and defendants in class actions seeking billions of dollars in damages. Most recently, Mr. McCulley was a member of the litigation team that achieved nationwide certification of a RICO claim against a major pharmaceutical wholesaler. This litigation, *In re McKesson Gov't Entity Average Wholesale Price Litig.*, D. Mass., settled shortly before trial for \$82 million. In addition, among other matters, Mr. McCulley recently secured a \$2.2 million arbitration judgment in favor of a large hospital system in a contract dispute with a health insurance company, a settlement for a medical device company asserting unfair competition and antitrust claims, and settlements for the City of Jacksonville, Florida in litigation against online travel companies for unpaid occupancy taxes.

Mr. McCulley is a summa cum laude graduate of Hampden-Sydney College, where he was elected to Phi Beta Kappa and Omicron Delta Kappa and served as the Chairman of the Student Honor Court. He received a MSc in Environmental Studies, with distinction, from the University of Strathclyde in Glasgow, Scotland, which he attended on a Rotary Ambassadorial Scholarship. He then graduated from the Washington & Lee University School of Law, magna cum laude, where he served as Editor-in-Chief of the *Washington & Lee Law Review*. Following law school, Mr. McCulley served as a law clerk to the Hon. Karon O. Bowdre, United States District Judge for the Northern District of Alabama.

Mr. McCulley is admitted to the Bars of the States of South Carolina, Florida and Alabama and the United States District Courts for the Northern District of Alabama and the Middle District of Florida.

Mr. McCulley has been repeatedly selected as a "Florida Rising Star" by *Super*

Lawyers. This honor is awarded to less than 2.5% of the attorneys in the State.

STUART H. MCCLUER

Admitted: South Carolina, Mississippi, Alabama (all State and Federal Courts in each state).

Education: The University of Virginia (B.A.); Washington & Lee University School of Law (J.D.). Executive Officer, MOOT COURT BOARD.

Clerkship: Hon. Callie V.S. Granade, Chief Judge of the U.S. District Court for the Southern District of Alabama.

Publications: *PWORA § 115: The Devastating Impact of a Little-Known Provision*, Shepherd Consortium (2002).

Practice: Mr. McCluer's primary experience has been representing plaintiffs in complex commercial litigation and serving as both compliance and litigation counsel to governmental entities.

Stuart H. McCluer was born in New Haven, Connecticut. He obtained his undergraduate degree in Philosophy from the University of Virginia. After working in the publishing industry in New York City, Mr. McCluer enrolled in law school at the Washington & Lee University School of Law. While in law school Mr. McCluer served as an Executive Officer of the Moot Court Board, assisted federal prisoners through the law school's legal practicum program, and published articles regarding post-incarceration disparate treatment through the school's Shepherd Poverty Program.

After graduation from law school Mr. McCluer served as a law clerk to the Honorable Callie V.S. Granade, Chief United States District Judge for the Southern District of Alabama. Following his clerkship, Mr. McCluer represented both private and governmental entities in litigation matters and served as the City Attorney for the City of Oxford, Mississippi.

In 2007, Mr. McCluer and his colleague Bryant McCulley formed the law firm of McCulley McCluer PLLC with the goal of prosecuting significant claims on behalf of private and governmental entities. Mr. McCluer has served as Special Assistant Attorney General to numerous States in pharmaceutical fraud litigation. Mr. McCluer has also served in leadership positions on behalf of class representatives and plaintiffs in numerous class actions including: *In re: Pre-Filled Propane Tank Antitrust Litig.*,

MDL No. 2567 (W.D. Mo.); *In re: Syngenta AG MIR 162 Corn Litig.*, MDL No. 2591 (D. Kan.); *Alaska Electrical Pension Fund v. Bank of America Corp. et al.*, 14-cv-07126-JMF (S.D.N.Y.) (ISDAFix Antitrust Litig.).

Outside the practice of law, Mr. McCluer is involved in a number of community service organizations. He serves on the Board of Directors of the Mississippi Innocence Project and as Treasurer for the Charleston Waterkeeper. Mr. McCluer is past-president of the American Bar Association's local Young Lawyers chapter and has repeatedly been listed in Mid-South Super Lawyers.

FRANK B. ULMER

Admitted: South Carolina and Virginia (Supreme Court of the United States, United States District Court for the District of South Carolina, Court of Appeals for the Armed Forces, Army Court of Criminal Appeals).

Education: Wofford College (B.A., *magna cum laude*, Phi Beta Kappa); Washington & Lee University School of Law (J.D., *magna cum laude*). Lead Articles Editor, WASHINGTON AND LEE LAW REVIEW.

Clerkship: Hon. David C. Norton, United States District Court for the District of South Carolina.

Publications: *Using DNA Profiles to Obtain "John Doe" Arrest Warrants and Indictments*, 58 WASH. & LEE L. REV. 1585 (2001).

Practice: Since joining McCulley McCluer as Of Counsel in 2015, Mr. Ulmer's primary practice has been representing plaintiffs in complex class actions. Mr. Ulmer is an experienced litigator with a diverse practice that, in addition to his current class action practice, has included general commercial litigation, judgment collection, professional negligence defense, and appellate litigation.

Mr. Ulmer is a magna cum laude graduate of Wofford College, where he was elected to Phi Beta Kappa and was a member of the golf team. He then graduated from the Washington & Lee University School of Law, magna cum laude, where he served as Lead Articles Editor of the *Washington & Lee Law Review*.

After graduating from law school, Mr. Ulmer served on active duty as a Captain in the Judge Advocate General's Corps of the United States Army. Mr. Ulmer spent most of his time in the Army litigating cases, serving as both a trial and appellate defense counsel. In these roles, he represented Soldiers at courts-martial and

administrative hearings and also before the Army Court of Criminal Appeals, the Court of Appeals for the Armed Forces, and the Supreme Court of the United States. During his five-plus years of active duty, Mr. Ulmer was stationed at Redstone Arsenal, Alabama; Fort Stewart/Hunter Army Airfield, Georgia; and Washington, D.C. Mr. Ulmer also served a year-long deployment in Baghdad, Iraq in support of Operation Iraqi Freedom III.

Following his military service and before entering private practice, Mr. Ulmer served as a law clerk to Judge David C. Norton, United States District Court for the District of South Carolina.

Mr. Ulmer is admitted to the bars of the States of South Carolina and Virginia, as well as the Supreme Court of the United States, United States District Court for the District of South Carolina, Court of Appeals for the Armed Forces, and Army Court of Criminal Appeals.